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Board Meeting – August 27, 2012

21st Floor – Conference Room 1

Present Board Members:

- Donald Lang, Chair (DL)
- Diane McLeod, Vice Chair (DM)
- Andrew Bedar, Member (AB)
- Mark Trivett, Member (MT)
- Myra Berloff, Massachusetts Office on Disability Designee (MB)

and

- Thomas Hopkins, Executive Director (TH)
- Kate Sutton, Program Coordinator/Clerk for Proceedings (KS)

Members Not Present:

- Gerald LeBlanc, Member (GL)
- Carol Steinberg, Member (CS)
- Walter White, Executive Office of Public Safety Designee (WW)
- Raymond Glazier, Executive Office on Elder Affairs Designee (RG)

1) **Incoming:** Walgreens, Porter Square Galleria, Cambridge (V12-213)

TH - EXHIBIT – variance application

- creation of two story Walgreens with escalator in between and a LULA
- need variance because they don't meet criteria of 28.12.1 exceptions to allow one by right

MB - grant, on the condition that directional signage installed

DM - second - carries

2) Incoming: Government Center T Stop, City Hall Plaza, Boston (V12-216)

TH - EXHIBIT – variance application

- plans for new station
- spending \$74million
- seeking 5 variances
- slope at the green line platform

*** Walter White, Executive Office of Public Safety Designee (WW) – Now Present ***

- TH
- as proposed for the platform, nowhere will the slopes exceed 5%, 2% required
 - there are indications where it is 2% and 5%
 - estimated cost to fix the slopes is \$500million, due to need to raise the tracks as well

DM - grant for 5% slopes

MB - second – carries

- TH
- two locations where they are proposing to maintain the design of some sets of stairs, so seeking variance for tread height where the stairs lower off onto the plaza at the edge of their stairs

- MB
- where the tread height varies off at an angle there are handrails
 - so there is some sort of warning there

MB - grant variance for 27.2 in those two locations as proposed

AB - second – carries

- TH
- corner of the scope of the project, going to try to blend to make the slopes comply as much as possible

AB - grant, as proposed

DM - second – Carries

*** Carol Steinberg, Member (CS) – Now Present ***

- TH
- one variance along Tremont Street
 - for the existing slope
 - currently all of the entrances along the slope in question (at the areaway) all of the business entrances along that sidewalk are at grade, changing the slope would require that the entrances be modified and a change of level would be created

- MB
- but if the buildings adjacent to the sidewalk own the areaway within the sidewalk, and the MBTA/City of Boston only has control over a small portion of the sidewalk in this location

*** Raymond Glazier, Executive Office on Elder Affairs Designee (RG) – now present ***

TH - want to leave the slope as it is, because the slope would need to be modified
- the slope does not exceed 5%
- areaway is about 4 feet

WW - *grant as proposed*

MB - *second – carries with CS abstaining*

3) Incoming Discussion: Modern Snack Bar, 342 Alden St., Fall River (V12-192)

TH - 3rd presentation of this case

- designer not an architect, stamped by engineers
- project has been on hold for 3 months
- photo with drawn in access shown via a ramp and exterior ramp
- met with designer, owner, and lawyer on Wednesday, August 22nd
- proposing to submit detailed documentation of the interior incline lift and the two accessible toilet rooms

CS - *allow them to resume work, on the condition that all submittals noted in the 8/24 letter are submitted for the September 10, 2012 meeting, submit by September 7th*

MB - *second – make sure that they understand that the plans shall comply in full with 521 CMR*
- carries

4) Incoming Discussion: Chicopee Housing Authority, 100 Deborah Drive, Chicopee (V12-210)

TH - 24 unit building
- 8 units destroyed in a fire
- required to provide 1 Group 2A unit
- 441B Plant Circle will provide the required Group2A unit, that is required at the existing building done by 2013

**** Gerald LeBlanc, Member (GL) – now present ****

MT - *grant as proposed*

MB - *second – carries*

GL - *status report every 6 months, starting February 1, 2013*

WW - *second – carries*

5) Incoming Discussion: Sidewalks, Curb Cuts at Broadway and Main, Taunton (V11-129)

TH - intersection plan, plan was accepted at the time of the submittal
- notified by Independence Associates that the plan approved was not the plan designed, the change in the plan was not brought back to the Board
- the change made the layout of the curb cuts to accommodate large tankers coming through the intersection

WW - *accept the proposed plan*

MT - *second - carries*

6) Incoming: Old High School Commons, 433 Mass. Ave., Acton (V12-214)

DM - acting as chair

TH - EXHIBIT – variance application

- former school building, being converted to 15 residential units, on the historic registry

- providing 2 Group 2A, even though not required

- seeking one variance for 22.3, and two sections of 24.2 and 24.4

- second walkway that approaches one of the front entrances to the building

- one they want to maintain based on historic reasons, cost of compliance would require a switchback ramp

WW - *grant as proposed*

MT - *second – carries with DM as chair (DL not present)*

7) Incoming: Woburn District Court, 30 Pleasant St., Woburn (V12-217)

TH - EXHIBIT – variance application

- roof project triggers toilet room and entrance

- seeking variance for 12” push side at stall door of existing women’s room

- stall is 92” by 80 ¼”

WW - *grant*

MT - *second – carries with DM as chair (DL not present)*

8) Discussion: 109 Sewall Ave., Brookline (V10-216)

TH - order required that they comply with a plan that was submitted on April 8th

- garages now built in compliance with the order

- awning also provided, but two areas are different

- previously had a pitched roof on the design, and some glass panels closer to the door

MB - knob handle at the garage door

DL - also looks like there is a threshold problem at the door

- awning does not extend to landing as proposed

CS - *accept construction of the awning and garages, on the condition that the door to the garage has a compliant threshold and door hardware, with proof of that submitted by October 1, 2012*

DM - *second – carries*

9) Incoming: Jack Welch Stadium Press Box, 137 High St., Ipswich (V12-215)

TH - EXHIBIT – variance application

- modular press box

- now proposing to install a lift
- originally sought to provide no access to the press box
- suggest to continue, until plan for lift and timeframes

DM - continue, submit plans for the lift and timeframes for compliance, no permit issued until compliant plans are accepted by the Board

MB - second – carries

10) Incoming Discussion: Essex North Shore Agricultural and Technical School, 562 Maple St., Danvers (V12-194)

- TH
- had asked for additional material regarding interior routes
 - four locations where the grade changes between one side of the building to the other
 - three of the requests, provide accessible route through the building via student keycard access
 - no town activities in the building

MB - asked a question, and only got an answer regarding IEP

TH

- Route 1 does not comply in full
- the other routes do comply

MB - use of stairs throughout the building, not the route for all

CS - hearing

GL - second - carries

11) Incoming Discussion: Essex North Shore Agricultural and Technical School, 562 Maple St., Danvers (V12-194) – Cont'd

DL - timeline of construction

TH - date of application was July of 2012 and the project was at the bidding stage at that point

WW - when can the hearing be held

KS - December

DL - encourage further detailed submitted plans of overall route

TH - told them that at last meeting

MB - what about parent/teacher conferences

TH - have to enter through main entrance

MB - adult education?

TH - not to my knowledge

MB - need to put in writing their access plan, not the IEP
- routes throughout campus, for all students

TH - in three locations the route is thru the building
- in only one building, not an interior route

WW - don't want to hold them up on the project

12) Incoming Discussion: Hole in One Restaurant, 98 Route 6A, Orleans (V12-208)

TH - follow-up information that was requested for the first floor bathrooms
- previously granted the variance for the lack of vertical access
- granted on the condition that plans for the accessible toilet rooms be submitted
- plans for first floor single user toilet rooms, one is 83" x 82", second is 75" x 88 3/4"

WW - *grant both first floor bathrooms*

GL - *second – carries*

13) Advisory Opinion: North Egremont Baptist Church, Egremont

TH - 6 person Baptist church
- concrete steps were being removed, building inspector stopped the project
- the steps were no longer usable
- mailed a variance application out to the parishioners for the church to seek time to make an accessible entrance
- building official is asking the Board to allow the work for compliant stairs to go forward

WW - *allow the work on the stairs to go forward on the condition that the work complies and that the variance is submitted within 60 days*

GL - *second – carries with CS abstaining*

14) Incoming: Riverview Preschool, 58 Riverview Rd., Gloucester (V12-221)

TH - EXHIBIT – variance application
- variance submitted on August 20th, missed deadline to meet this incoming case review timeframe
- petitioner knows that case will not be reviewed till next meeting, seeking to occupy the space in the meantime on a temporary occupancy permit
- seeking to expand occupancy number for the school, have waiting list for 2012/13 school year

WW - *grant temporary CO until case reviewed*

CS - *second*

MB - troubled by her letter to us

WW - no clue about how the system works, doesn't understand the process

MB - her letter appears to state that we are holding her up

DM - if granted on temporary basement, not on a permanent basis until review

WW - didn't realize how long the process would be,

DM - what if child comes in with wheelchair in January, no plan for accommodation

WW - what about all the kids that can't get into preschool between now and then because she is not open

- *carries*

15) Advisory Opinion: Dracut High School, 1540 Lakeview Ave., Dracut

TH - renovation and addition, over 30%
- courtyard that is accessible from two levels, within courtyard, 9'4" change in grade
- two routes through the courtyard, inaccessible
- propose to provide a fully compliant ramp route at one stairs
- other route that does not comply

WW - *variance required*

CS - *second – carries*

16) Discussion: Outdoor Elevator, West Columbus Ave., Springfield (C11-119)

TH - received submittal regarding the contract for the elevator renovations and waterproofing of the elevator
- main issue is the water in the pit
- in the winter, the elevator often breaks down because at the exterior
- also submitted plan for a ramp
- had required them to provide this study
- complainant wrote to the Board after receiving a copy of the study, asking what steps would be taken during the coming winter
- ramp would cost as much as elevator work
- perhaps continue to talk to the attorneys

MB - what are they looking to do?

TH - not sure

WW - *instruct director to talk to petitioners and encourage the building of the ramp*

CS - *second - carries*

17) Discussion: Cases of today

CS - is it employee only space at the second floor?
- kitchen, but only the staff uses it

TH - need to clarify second floor use

- CS - country club use
- TH - wanted to know at the end of the two year period if the lit would be required
 - also asked by complainant to enter 10 page blog documents
 - was also asked by complainant to send new variance request, when this is in fact a continuation of the previous hearing
- MB - wanted them to come in to talk about how the entrances are being used
- DL - Family Dog, just a t-shirt shop
 - video proposal for showing t-shirts, not a genuine proposal since this is a t-shirt shop and the merchandise can be brought to patrons
- TH - originally proposing elevator, the Board ordered a hearing to discuss other devices
 - hadn't read the piece where the video proposal was suggested
- DL - want to see them frame out the lift for the second floor asap
- DL - Temple Street, should counsel be present for this case
 TH - no, the Board can handle this
 - the neighbors appealed because they were at the original hearing, and they want to weigh in
- DL - just have them submit testimony

18) Hearing: Learning & Discovery Center, 286 Main St., Saugus (V07-014)

- DL - called to fine hearing to order at 11:00 a.m.
 - introduce the Board

Michelle Ring, Owner (MR)

- DL - MR sworn in
 - EXHIBIT 1 – AAB1-15
- MR - closing the facility, because haven't paid myself in 3 years
 - own house is in foreclosure
 - leasing the space for 3 years
- DL - \$60,000.00 rent
- MR - own the building, but the school is incorporated, so even though they run the building, the school pays the rent to her, to pay the mortgage
 - woman will be leasing the building to use as a new daycare
 - all children at one floor same as second floor, second floor kitchen space

- two rooms down stairs, one room upstairs
- when first opened the business, things were going well the first 8 months, so had all intentions to comply, but do to the loss of enrollment and the struggling of the school

DL - person leasing the space would take over the school

MR - yes, that woman already has another school established in Stoneham

- much better than losing this building

DL - is she aware of the issues with the Board

MR - the lease states that if variance for lack of access not provided, then space will not be leases

CS - age groups and rooms

MR - first floor has infant/toddler room and preschool room

- second floor, same rooms
- bathroom at both floors, neither bathroom complies, because only a change of use from home to daycare
- only difference is the staff kitchen at second floor
- have done all the trainings for taking children with disabilities
- first floor has access to it

DM - where do the kids eat?

MR - in their own rooms, food is delivered to the classrooms

DM - unfortunate situation, but still issue of access before us

DM - due to the current situation, grant a variance for this proposed tenant and use, that would expire when that tenant leaves the space

CS - second –

GL - would like to see the decision recorded with the registry of deeds within 60 days and send copy of the tenant lease

DM - accept conditions

WW - economics of the business is not there to enable them to put together enough money to provide vertical access, would rather outright variance

DM - at the end of three years could change

MR - if not daycare, then used as a house

- nothing will conflict with the current lease

- carries

WW - expedite

GL - second - carries

19) Advisory Opinion: TD BankNorth, 405 Franklin St., Braintree

- TH - parking dispute to be settled by the Board
- inspector cites signage language and the access aisle is at the “wrong side” of the space
- tight spaces for turning vehicles
- two different entrances at either side of the building, van space at one side and not the other

CS - *have TH talk to them about moving the van accessible space to the other side for usability*
GL - *second - carries*

20) Discussion: Polish National Alliance, 13 Victory St., Adams (V11-141)

- TH - architect submitted some of the documents that were requested, still have till December 1, 2012 for the site plan
- submitted plan for single use toilet room
- cross-hatched areas on plans for areas that were not public
- also received letter from architect and affidavits regarding use of the spaces from the building owners
- one affidavit for basement area, one for the second floor
- affidavit notarized by Lisa Mendel, the woman that has appeared at hearing

MB - she is not independent or unbiased

CS - she is an interested party

TH - think they are ok, but they need to be registered
- should have plans of crosshatched nonpublic areas be submitted with the affidavits when recorded

MB - meeting room not open to the public

TH - yes, that space has been closed

MB - saying not open to the public, but still labeled as a meeting room
- need to be very clear

WW - *accept the affidavit and plans as proposed, on the condition that recorded within 60 days*
GL - *second – carries*

21) Advisory Opinion: Vocational School, Norfolk County, 400 Main St., Walpole

- TH - advisory opinion submitted by Timothy Brennan
- access into a welding booth
- counter dimensions for reaching over obstruction

DM - *variance required if the dimensions are equal*
WW - *second - carries*

22) Discussion: Worcester State Hospital

- TH - new psychiatric hospital in Worcester
- cityscape court, with beauty salon, food court, store, fitness center

- 260 for adults, 60 for adolescents
- remaining clock tower and remaining existing historic portion of the old Worcester State Hospital
- fall zone hazard area fenced off around the existing clock tower
- found violations in the sidewalks that were able to be measured outside of the fall zone
- focal point, main entrance will be where the clock tower is located, but that area is fenced off
- one hallway bathroom found to be out of compliance, asked architect to further determine if other variances for other bathrooms required
- also found violation in wooden stools provided within the Group 2B showers, instead of the fixed fold down seats
- 2B kitchen areas only violation found that refrigerators aren't capable of opening at 180 degrees because up against the wall
- nurse stations for medication dispensing, Dutch door with higher and smaller width dimensions, 14 locations
- seeking occupancy permit, even if temporary in nature
- have provided temporary accessible parking
- DPS is requesting that scaffolding provided over the fall zone areas
- fall zone will shrink, once dismantled to a certain level
- they want to the Board to allow temporary CO based on submittal of variance application, will need to waive the 2 week waiting period if the Board chooses to review at the September 10th meeting

CS - set aside temporary hearing timeframe

WW - approve the issuance of a temporary CO until the outstanding issues with the Board are resolved; on the condition that variance submitted by September 7, 2012, to be reviewed at September 24, 2012

AB - second - carries

23) Discussion: Worcester State Hospital – Cont'd

TH - DCAM asked if the Board was interested in a site visit

- who would be interested?
- 6 interested in Board Site Visit

MB - when are they looking to start loading the building?

GL - expedite decision

DM - second - carries

24) Hearing: Family Dog, 286-288 Commercial St., Provincetown (V12-090)

DL - called to order at 1:00 p.m.

- introduce the Board

William Riley, Attorney for Petitioner (WR)

- DL - Exhibit 1 – AAB1-13
- WR - represent the principal in the company, Ronnie Hazel
- Petitioner bought the building in winter of 2011/12 for \$2million, spent money rehabbing the interior
- started working and applied for permit to do the work, was asked what mode of vertical access would be provided
- would like time to install the elevator, seeking 3 years, would be installed by 2015
- sells jewelry, tie-dyed t-shirts, postcards, tourist merchandise
- area of the first floor that has examples of everything for sale at the second floor
- personnel in the store (11-12 people per shift) can retrieve items available at the second floor
- all small items for sale, easily moved to the first floor
- struggling business in its first year
- DL - nothing to do with pets?
WR - no
- TH - first presented as incoming case on 4/23/12, at which time, the proposed date for compliance was misread to state 2013
- after further review and at the next meeting on 5/7/12 represented to clarify that the date was 2015 not 2013
- discussion why an elevator and not a lift, then motion to schedule the hearing to discuss which is proposed
- WR - Petitioner would prefer an elevator, which would be better for everyone in owner's opinion
TH - LULA has a little small cab, but still operates the same as elevator
- DL - would understand the installation of the elevator for the long-term use in the building
- WR - not aware of LULA, but aware of wheelchair lift versus elevator
- thought the use of an elevator would be more user friendly
- may prefer the installation of the LULA for the current use, which will most likely be the use for the length of the building
- DL - did any of the framing go in as part of this construction of the elevator when the building was fit out?
WR - yes
TH - plans shows future elevator
- DL - owner proposing 3 years
WR - yes, have to do with meeting obligation of promissory note
- short amortization schedule, \$10-12,000 per month, bought building from a friend
- ten year schedule for payment, has another building that is for sale, that will pay down the note for the current building

TH - AAB2, original notice of action
- time not set, just scheduled a hearing
- request for 3 years from initial application

MB - we want to be very clear, that should he decide to rent out the second floor, it would be different
- can't be rented to another building without vertical access
WR - would be acceptable to the Petitioner as a condition

CS - threshold at the entrance
- would want to know more about the front entrance
- video that is proposed, where would it be located?
WR - towards the back of the store
- understand that it is in process

CS - first floor bathroom in place
WR - yes
TH - but not under jurisdiction of the Board

DM - concern is 3 year timeframe
- don't want it to grant them 3 years, and then have them start the process in 3 years
- will there be funding set aside for the installation of the elevator

WR - yes

WW - *work be completed by April 3, 2015, on the condition that progress reports on April 3, 2013 and April 3, 2014,*

GL - *second*

MB - *October 3, 2014 status report as well, signed contract and deposit check to allow completion and inspection by April 3, 2014*

WW - *yes, to October 3, 2014 status report; do not accept signed contract and check language*
- *carries*

CS - *require proof of second floor (video and pictures)*

WR - *already display area at the first floor of second floor space*
- *withdraw, based on testimony*

CS - *submit evidence of access compliance at the front entrance or plans for compliance by December 1, 2012*

GL - *second – carries*

RG - AAB13, 16 feet?
WR - that is the window opening

25) Incoming: Home City Housing, Multiple Buildings (4 total), multiple addresses, Springfield (V12-218)

- TH - EXHIBIT – variance application
- spending over 30%
 - spending primarily due to tornado damage for roofs, curtain walls, windows
 - proposing 3 Group 2A units
 - seeking 9.4.2 variance for distribution, 3 required units, 4 buildings
 - proposing 2 units in an 11 unit building and none in an existing 16 unit building
 - 1 1-bedroom and 1 2 bedroom at first floor of 97 Pine Street, 1 2-bedroom unit at 116 Hancock St.

WW - *grant distribution request*

GL - *second - carries*

- TH - 16 unit building, seeking no access to common areas
- no access into that building
 - technologically infeasible due to existing lot sizes
 - as an alternative, laundry facilities provided within accessible units provided, seeking variance for 10.8

DM - *grant variance to 10.8 for all 4 buildings, on the condition that accessible laundry provided within the accessible units as proposed*

RG - *second – carries*

MB - *grant relief for entrance to 22-24 Winthrop St (16 unit building), based on tech. infeasibility*

DM - *second – carries*

26) Discussion: Blueberry Rehab, 175 Brimball Ave., Beverly (V11-120)

- TH - hearing and full decision issued
- based on economy at the time, the case went dormant
 - recently received letter from architect asking if variance relief was required for 30.7.1
 - the Board had granted relief for the lack of overall dimensions for a single-user toilet room
 - Hale House bathroom dimensions

MB - *more specific information on the dimensions in the locations that he is speaking about for the proposed toilet rooms*

DM - *second - carries*

27) Discussion: Decisions and Minutes from August 13, 2012

- CS - Phillips Academy Decision

DM - *accept the minutes and decisions*

WW - *second – carries*

28) Discussion: 231 Main Street, Rutland (V11-176)

- TH - attorney for the building owners spoke with KS about a new proposed tenant occupying the space
- were told that they would need to continue to interact with the Board regarding the new tenant

- awaiting amended variance request from the owner

29) Incoming: Park Plaza Hotel, 50 Park Plaza, Boston (V12-212)

TH - EXHIBIT – variance application

- dividing of some guest rooms into two rooms, originally were two rooms, opened to one room, and now proposing to convert back to two rooms
- variance for 8.7 other guest room doors, spending triggers work performed
- not really touching the room doors, planning to subdivide 112 rooms
- that increasing total guest room count to 1,053 guest rooms, adding 6 additional Group 2B rooms, 56 total Group 2B rooms available
- do not provide 32” of clearance at other hotel room doors for corridor side doors at 224 rooms, of the 1,053 rooms provided

MB - if blocking out rooms for a wedding, if there are some rooms that are requested as accessible, then all rooms involved with the room block need to be compliant with the door requirements

- need written policy

MB - grant as proposed, provided that they submit a written policy, so that if 32” clearance doors at the room block would be required for all rooms provided within said room block if accessible rooms also requested within the room block

GL - second - carries

30) Discussion: Venus Restaurant and Cellar Bar, 95 Main St., Easthampton (V09-002)

TH - fine hearing scheduled for 10/15/12 at 11:00 a.m. to sort out the lift issues

- previously operated both first and basement level spaces, proposed incline lift at the stair, and then found that the owner had come under financial hardship had leased the first floor to another restaurant, other than the cellar bar; operated the bar on its own for months, fine hearing scheduled due to lack of access
- recently received call from the owner stating that the elevator company was saying that the required head height would not be provided if the incline lift installed
- now first floor tenant wants to take over basement space, so seeking to revisit the installation of the lift
- told owner that the elevator company and former architect should come to the fine hearing, since architect had previously stated that work would be done to provide the required head height
- Andy Bristol, access specialist from Stavros, has been working with the owners
- originally sought 2 year time variance request to do the work
- none of the status reports submitted, an additional reason for the fine hearing being scheduled

*** NO MORE DIANE MCLEOD ***

31) Hearing: Slaterry Funeral Home, 40 Pleasant St., Marlborough (C10-078)

DL - called to order at 1:30 p.m., scheduled for 1 p.m.

- introduce the Board

Pamela Wilderman, Code Enforcement City of Marlborough (PW)

Alan Slattery, Owner of Slattery Funeral Home (AS)

Regina Slattery, Owner of Slattery Funeral Home (RS)

Mark Dempsey, Compliance Officer for the Board (MD)

Ann Marie Maddox, Complainant via conference call (AM)

DL - all sworn in
- Exhibit1 – AAB1-42

MD - \$600,000.00 renovation to the building, clearly over 30% of the value of the building
- original complaint came in regarding width of accessible parking and entrance door width, additional complaint filed regarding brick walkway

AM - called in the morning to ask how far the accessible parking was from the front entrance
- ended up parking in front of the walkway to the front entrance, walkway bricks were uneven, caught walker
- double-door at the entrance, open one of the double doors, other one locked, could not get walker thru the door with the walker
- when left the wake, the other door was unlocked to allow her to exit
- accessible parking at the time at the rear of the building
- heard of a lot of complaints but no one has filed any additional complaints on the funeral

DL - representative from the City

PW - civil code enforcement, present because building commissioner responded and building inspector died in February
- inner city funeral home, lived in by the owners, been a funeral home since 1986, historic home
- wanted to maintain historic nature and meet the zoning requirements
- AS sister used a wheelchair for 20 years, so cognitive of accessibility needs
- have to maintain two-way traffic to get to the parking
- put accessible parking at the rear of the building, which is no farther than any of the other funeral homes parking
- doors were locked because AM came to the funeral home prior to wake beginning, not informed by the family that AM would be coming
- double doors are always both unlocked during hours of operation
- maintain the brick walkway, which was renovated in 2010
- went to the site today, but did not notice any issue with the brick walkway
- also traffic commission proposing accessible on street parking
- seeking to maintain that parking location, speaking on behalf of the City

DL - parking shown in photos
- site plan shown shows accessible parking at the side of the building, but moved to the rear
PW - yes, they were moved

- because the required number of parking spaces were provided, then would lose one parking space

DL - plan was approved with spaces that comply as far as location

PW - original contractor had to be fired due to not paying subcontractors
- had to hire a new engineer
- this was the “best case scenario”

DL - spaces closest to the entrance taken to show that the spaces are available

MD - yes AAB6, 7 and 8

CS - find in favor of the complainant regarding the location of accessible parking spaces (23.3.1)

GL - second – carries

DL - pair of doors to make a single entrance

- individual door is only 27 ½ inches clear

MD - roughly 5 1/2" foot wide doorway when both doors open

- AAB21, shows the front entrance door

RS - prior to the beginning of calling hours, the front doors (the storm doors) are closed, the wooden doors are generally closed, but not latched

- unaware of the complainant coming to the building, was talking to the sister of the deceased and did not notice AM until she was in the building

- she could have rang the doorbell for assistance

- during calling hours, the doors are manned by staff to open the doors for people

- can put the storm doors on a hold-open

PW - this part of the house was not addressed due to historic significance of the home

DL - can only deal with building code access

MB - find in favor of the complainant for 26.5

AB - second – carries

RS - exterior or interior doors?

DL - both

DL - photo of AAB20, not a step

MD - no compliant threshold

MD - brick walkway

- didn't use smart level

AM - skis on the back of the walker, so the bricks catch the walker
- walkway is not level

RS - have never had any complaints about the walkway
- have letters from a woman that uses a scooter and man that uses a walker

DL - MD was not aware of this item at the site visit

CS - when was the walkway last maintained
AS - in 2010

CS - *find that there is not enough proof to find in favor of the complainant for walkways (22.4)*
MB - *second - carries*

MB - photograph of the stairs, AAB9
- leading to the front door
- lack of handrails, as well as noncompliant handrails being provided

RS - were told that handrails were not required at the other side when installed
- the building department told them that they did not need the handrails

MB - it is required to provided the two handrails

RS - were told that no handrails were needed because of height of stairs

DL - 27.2 requires uniform treads and risers, 27.4 says continuous handrails at both sides of all stairs

RS - if were told at the time

DL - front door has a doorknob

MB - handrail also has to extend, so both handrails need to be extended at the bottom of the stairs

WW - *do a full review of the building (to include parking and door width) with a registered architect; submit plans for compliance or variance request by January 1, 2013*

MB - *second – carries*

32) Hearing: Ledges Golf Club, 18 Mulligan Drive, South Hadley (V08-184 and C08-057)

DL - called to order at 3 p.m.
- introduce the Board

Jennifer Wolowicz, Acting Town Administrator for South Hadley (JW)

Doug Juhasz, General Manager of Ledges Golf Club (DJ)

- DL - both sworn in
- EXHIBIT 1 – AAB1-31
- TH - one more document that has to be included in the case
- also letter from JW, dated August 22, 2012
DL - EXHIBIT 2, copy of August 22, 2012 letter
- TH - would also like to submit email and photograph of disabled golfer
DL - EXHIBIT 3
- TH - also sent email on Friday at 10 p.m. from Scott Ricker asked to be included in the record
- also submitted 10 page blog from Petitioner
- in discussion with Mr. Ricker in the last week, he did not ask to participate in the hearing
- also Ricker stated that he did not visit the site since his complaint
- DL - stairs at the back of the building that lead to cart drop-off and pick-up
- JW - were asked to put together signage and did that
- there are 3 actual entrances, the first entrance from the parking lot
- DL - AAB21 shows accessible entrance
- JW - into dining area and accessible parking area
- keep some carts stored at the paved area adjacent to the area where the accessible parking spaces are
- MB - signage does indicate that
- DL - time variance was granted until April 1, 2012 for the “rear entrance”
- MB - needed to know if the accommodations worked or not
- JW - DJ is new to the course, started last year
- the plan has worked, with the signage and the carts in the accessible locations
- employee that was on crutches that worked in the pro shop
- disabled golfer that golfs at the course
- built accessible counter
- TH - email from Scott Ricker from Friday, August 24th
DL - accept as EXHIBIT 4
- DL - can accept it for the record, but cannot review the document at that time of the hearing since submitted that morning and 10 page document, plus it is an anonymous blog
- JW - do not feel that it would be a substantial benefit for persons at this time, due to the policy in place

- any complaints about the golf course, not about access

CS - when are the carts at the front?

JW - they are provided at the front when the building is open, they have to be secured overnight
- golf carts are staged, 3 at a time, carts are always there

CS - written policy that there are carts there

TH - accepted previously by the Board

WW - *grant the variance as long as current policy maintained*

MB - *second – based on testimony presented today that the policy and accommodations are working*
- *carries*

33) Hearing: 15 Room Lodging Facility, 40 Temple Street, Boston (V11-137)

DL - called to order at approximately 3:30 p.m.
- introduce the Board

Those present:

Katie McGuinness, Kessler McGuinness Associates (KM)

Fred Mannix, FG Mannix Co. (FM)

Kevin Corridan, City of Boston Representative (KC)

Adam Hundley, Goulston and Storrs (AH)

Frank Hoff, 40 Temple St. (FH)

Bruce Miller, 40 Temple St. (BM)

Wendy Lavalley, Resident of 38 Temple St. (WL)

David Morse, Resident of 31 Temple St. (DM)

DL - WL and DM sworn in
- EXHIBIT 1 AAB1-23

TH - August 23, 2012 received second letter from Boston Parks and Recreation Department, previously emailed to the Board, but hand out as an exhibit

DL - Accept August 23, 2012 from Boston Parks and Recreation Department as EXHIBIT 2

DL - jurisdiction of the Board only limited to access issues

WL - read statement into record in opposition of the Board's decision
- this ruling serves to continue to encourage pursue the use of Temple Street park, which is owned by the residents of Temple St. and Suffolk University

DM - support the letter from Boston Parks and Recreation Department

- very small park, but significant park for the neighborhood, put a lot of money into park

CS - Neighbors opposed attempts at access, but now are seeking to have access to oppose the ongoing project

GL - *take the matter under advisement*

WW - *second – carries*

WL - submit written testimony

DL - accept as EXHIBIT 3

34) Hearing: 15 Room Lodging Facility, 40 Temple Street, Boston (V11-137) – Cont'd

WW - *open 40 Temple St.*

MB - *second - carries*

MB - *based on the long history and all of the information that the Board has, in fact the decision to grant relief on the lack of an accessible entrance is based on the technological infeasibility of the case, based on the procedural road blocks, the City of Boston, and the Historic Commission, that made it technological infeasible to create access to the building*

- *had originally granted to have the Petitioners continue to work with the City Department of Parks and Recreation, but seems that this will also be infeasible and*

- *intent of the motion is to leave in place the variance for the lack of an accessible entrance into the building, based on technological infeasibility, and based on the fact that the accessible room will be provided as proposed, should that park ever provide more public access, then the issue of access into the building could be reopened, but until that time, the variance stands*

CS - *second, but also state that although testimony submitted today, nothing that changed the Board's previous decision*

- *carries*

DL - letter from Parks and Rec not copied to disability commission or mayor's office
- should follow-up to the Disabilities Commission, Legal Department, and Mayor's Office regarding the August 21, 2012 letter from the Boston Parks and Recreation Department

CS - letter from TH and/or DL to all parties concerned

TH - representative for the North Side of the Hill, gave testimony at neighborhood meetings about not creating access because of historic access and cutting thru the park

DL - should respond to Parks and Rec letter and copy other people (i.e. commission, mayor's office, etc).

CS - *letter from TH and/or DL to follow-up on the Parks letter*

AB - *second – carries*

*** No more GL ***

35) Incoming Discussion: 11 North Restaurant, 11 North Water St., Edgartown (V12-206)

TH - presented on August 13th
- existing 2-story restaurant
- denied previously based on objection of disability commission and the fact that the work was already done
- denial of variance and schedule hearing as soon as possible, scheduled for December 3
- spending noted in application not correct, could trigger further compliance
- seeking temporary CO to open in between now and hearing in December 2012
- just under 30% for issue of vertical access, upon review of spending, but did rebuild the stairs within the building, if the stairs were moved then could have triggered compliance

MB - first floor if accessible entrance

MB - as soon as an accessible entrance provided and accepted by the Board, then the temporary Certificate of Occupancy can be issued for the first floor only
- change motion to, as soon as compliant accessible plans for the entrance, and timeframe, will then reconsider the possibility of an issuance of a temporary CO
GL - second - carries

36) Incoming: Home City Housing, Multiple buildings and addresses, Springfield (V12-218) – Cont'd

TH - existing stairs within the buildings

MB - grant relief for the lack of compliance at the inner handrails of existing stairs on the condition compliant wall side handrails installed
CS - second – carries

TH - nosings at existing stairs, project more than an inch and a half

MB - deny variance for 27.2, nosings at existing stairs
WW - second – carries

- End of Meeting -